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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,888	12/07/2005	Josef Zelger	HD/3-22898/A/PCT	2828
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BASF Corporation Patent Department 500 White Plains Road P.O. Box 2005 Tarrytown, NY 10591				
EXAMINER				
ASD/ODL, MOHAMMAD REZA				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
08/19/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/559,888

Applicant(s)

ZELGER ET AL.

Examiner

M. REZA ASDJODI

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2, and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, and 3-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/15/2010 has been entered.

This Office action is in response to Applicant's amendment filed 07/15/2010. Applicant has amended claims 1, 2, and 4. Currently, claims 1, 2 and 4-18 remain pending in the application.

Claim Rejections - 35 USC § 112

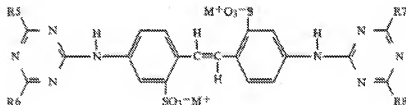
Claims 1-2, and 3-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added whitener's concentration range, at least 10%, is construed as a concentration range of 10-100% which is not disclosed by specification of this application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

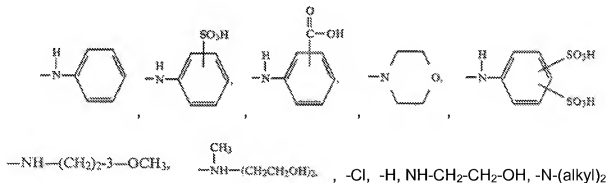
Claim Rejections - 35 USC § 103

Claims 1-2, and 3-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrin et al. (US 5,057,236) in view of Brouwer (5,714,450) and applicants' admission of prior art.

Regarding claims 1-2, 3-12, and 14-16, Petrin et al. teach the storage stable (3: 57-62) CC/DAS brighteners (fluorescent whitener) of the class (mono- or polysulfated) phenyl-, triazinyl stilbenes of structure below; [4: 45-67, 5: 1-24, 3: 60],



Wherein M= H, Na, K, or Li; and each of R5, R6, R7, and R8 are independently selected from the substituents



or -NH-alkyl, and NH₂ (as stated in the claim); wherein the alkyl group contains from 1-8 carbon atoms. The structure above satisfies the structural limitation of instant claims, and selected species (where R8 is morpholino), completely. Petrin et al. teach electrolytes such as sodium hydrogen carbonate, sodium carbonate, and sodium

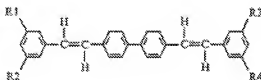
phosphate by the amount of 0-50%; [15: 55-58], anionic poly saccharide such as xanthan gum or guar gum by the amount of 0-50%; [15: 36-37], dispersants such as anionic or nonionic surfactants (ammonium sulfosuccinate, polyacrylate, or polymaleates) by effective (desired) amount; [15: 1-3, 65-68], adjunct (or optional) ingredients such as dyes, foam booster, and pigments by the amount of 0-20%; [15: 6-11, 20: 60-64], and water to make up the rest of composition to 100%; [17: 6].

Regarding claim 1, Petrin et al. do not teach the M group in formula 1 as being mono, di, tri or tetra C1-C4 alkylammonium or mono and di or tri C2-C4 hydroxy-alkylammonium. However, applicants' admission of prior discloses that these dye compounds are already known (available in the market); [0046]. At the time of invention, it would have been obvious to a person of ordinary skill in the art to select the known dye ingredient as a functional equivalent ingredient.

Regarding claims 1, 2, 4, and 14, Pertin et al. do not teach the claimed range of fluorescent whitening agents. However, Brouwer et al. teach a detergent composition with similar fluorescent whitening agents (23: 10-12) with detergent concentration of 1-90%, wherein the ratio of surfactant/whitener is from 5:1 to 2:1; [24: 65-67]. This renders the claimed whitener's concentration range obvious. At the time of invention, it would have been obvious to a person of ordinary skill in the art to utilize a higher concentration of fluorescent whiteners with the motivation of enhancing the whitening efficacy of the cleaning composition as evidenced by Brouwer.

With respect to claims 1, and 14, Petrin et al. teach at least one further fluorescent whitener, of given structure of formula (2), by the amount of 0.001-5%; [4: 45-67, 3: 60].

Regarding claim 13, Petrin et al. teach one further fluorescent whitener of formula (3) of instant claim, wherein R1, R2= SO₃M, and R2, R4= R10, R11= H; [4: 15-35].



Regarding claims 17-18, Petrin et al. teach a method, or process, of preparing a storage stable fluorescent whitener, and detergent formulation, comprising mixing the moist centrifuged slurry (cake) with the other ingredients such as water and polysaccharides; [8: 51-68, 9: 1-10, 14: 65-68, 15: 1-40].

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Reza Asdjodi whose telephone number is (571)270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton I. Cano/
Supervisory Patent Examiner, Art Unit 1796

/M. R. A./
Examiner, Art Unit 1796
08/10/10